



Reprinted
February 25, 2005

HOUSE BILL No. 1518

DIGEST OF HB 1518 (Updated February 24, 2005 10:48 pm - DI 14)

Citations Affected: IC 8-1; noncode.

Synopsis: Telecommunications regulatory reform. Specifies that a person or an entity that transmits communications over Internet Protocol enabled services is not a public utility subject to the regulation of the utility regulatory commission (IURC). Prohibits the IURC from exercising jurisdiction over: (1) advanced and broadband services; and (2) information services. After June 30, 2007, prohibits the IURC from exercising jurisdiction over any nonbasic telecommunications service. Specifies that if a provider raises certain recurring rates, the provider shall continue to offer a flat monthly rate with unlimited local calling for basic telecommunications services. After June 30, 2010, prohibits the IURC from exercising jurisdiction over: pricing, terms, and conditions for basic telecommunications service. Requires the IURC to establish reasonable pricing for unbundled network elements, the resale of telecommunications services, and interconnection in accordance with the federal Telecommunications Act of 1996. Requires the IURC to biennially identify and eliminate telecommunications regulations no longer necessary due to advances in technology and competition. Specifies that duties to provide dual party relay services for the hearing and speech impaired apply to providers of advanced, broadband, and other Internet services. Specifies the rights and obligations of providers of last resort, exiting
(Continued next page)

Effective: Upon passage; July 1, 2005.

**Murphy, Lutz J, Mahern, Kuzman,
Koch**

January 18, 2005, read first time and referred to Committee on Technology, Research and Development.
February 21, 2005, amended, reported — Do Pass.
February 24, 2005, read second time, amended, ordered engrossed.

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providers, and successor providers. Allows the IURC to retain jurisdiction over the provision of 211 services. Requires IURC to submit to the regulatory flexibility committee (the "committee") a report that includes an analysis of various issues concerning the telecommunications industry, including the status of competition in the industry and the availability of various telecommunication services in Indiana. Requires the IURC to submit its report to the committee not later than November 15, 2006. Requires the IURC to include in the report any recommendations for proposed legislation concerning the industry that the IURC determines to be in the public interest. Requires the IURC to retain jurisdiction over the rates that may be charged by an incumbent local exchange carrier to a pay phone service provider.

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February 25, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1518

A BILL FOR AN ACT to amend the Indiana Code concerning
utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 8-1-2-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) **Except as provided in**
3 **section 1.1 of this chapter**, "public utility", as used in this chapter,
4 means every corporation, company, partnership, limited liability
5 company, individual, association of individuals, their lessees, trustees,
6 or receivers appointed by a court, that may own, operate, manage, or
7 control any plant or equipment within the state for the:
8 (1) conveyance of telegraph or telephone messages;
9 (2) production, transmission, delivery, or furnishing of heat, light,
10 water, or power; or
11 (3) collection, treatment, purification, and disposal in a sanitary
12 manner of liquid and solid waste, sewage, night soil, and
13 industrial waste.
14 The term does not include a municipality that may acquire, own, or
15 operate any of the foregoing facilities.
16 (b) "Municipal council", as used in this chapter, means the
17 legislative body of any town or city in Indiana wherein the property of

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the public utility or any part thereof is located.

(c) "Municipality", as used in this chapter, means any city or town of Indiana.

(d) "Rate", as used in this chapter, means every individual or joint rate, fare, toll, charge, rental, or other compensation of any utility or any two (2) or more such individual or joint rates, fares, tolls, charges, rentals, or other compensation of any utility or any schedule or tariff thereof, but nothing in this subsection shall give the commission any control, jurisdiction, or authority over the rate charged by a municipally owned utility except as in this chapter expressly provided.

(e) "Service" is used in this chapter in its broadest and most inclusive sense and includes not only the use or accommodation afforded consumers or patrons but also any product or commodity furnished by any public or other utility and the plant, equipment, apparatus, appliances, property, and facility employed by any public or other utility in performing any service or in furnishing any product or commodity and devoted to the purposes in which such public or other utility is engaged and to the use and accommodation of the public.

(f) "Commission", as used in this chapter, means the commission created by IC 8-1-1-2.

(g) "Utility", as used in this chapter, means every plant or equipment within the state used for:

- (1) the conveyance of telegraph and telephone messages;
- (2) the production, transmission, delivery, or furnishing of heat, light, water, or power, either directly or indirectly to the public;
- or
- (3) collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste.

The term does not include a municipality that may acquire, own, or operate facilities for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste. A warehouse owned or operated by any person, firm, limited liability company, or corporation engaged in the business of operating a warehouse business for the storage of used household goods is not a public utility within the meaning of this chapter.

(h) "Municipally owned utility", as used in this chapter, includes every utility owned or operated by a municipality.

(i) "Indeterminate permit", as used in this chapter, means every grant, directly or indirectly from the state, to any corporation, company, partnership, limited liability company, individual, association of individuals, their lessees, trustees, or receivers appointed by a court, of

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power, right, or privilege to own, operate, manage, or control any plant or equipment, or any part of a plant or equipment, within this state, for the:

- (1) production, transmission, delivery, or furnishing of heat, light, water, or power, either directly or indirectly to or for the public;
- (2) collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste; or
- (3) furnishing of facilities for the transmission of intelligence by electricity between points within this state;

which shall continue in force until such time as the municipality shall exercise its right to purchase, condemn, or otherwise acquire the property of such public utility, as provided in this chapter, or until it shall be otherwise terminated according to law.

SECTION 2. IC 8-1-2-1.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1.1. A person or an entity that:**

(1) transmits communications over Internet Protocol enabled services, including:

- (A) voice communications;**
- (B) data;**
- (C) video streams; or**
- (D) any combination of voice, data, and video communications; or**

(2) provides the necessary software, hardware, transmission service, or transmission path for communications described in subdivision (1);

is not a public utility (as defined in section 1 of this chapter) solely by reason of engaging in any activity described in subdivisions (1) through (2).

SECTION 3. IC 8-1-2.6-0.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 0.1. (a) As used in this chapter, "basic telecommunications service" means stand alone local exchange service that:**

(1) is provided to a residential customer through the customer's primary line; and

(2) is:

- (A) the sole service purchased by the customer;**
- (B) not part of a package of services, a promotion, or a contract; or**
- (C) not otherwise offered at a discounted price.**

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(b) "Basic telecommunications service" includes, at a minimum, the following:

(1) Voice grade access to the public switched telephone network with minimum bandwidth of 300 to 3,000 Hertz.

(2) Dual tone multifrequency signaling and single party service.

(3) Access to:

(A) emergency services, including access to 911 and enhanced 911 if provided by the local government having jurisdiction in the service area;

(B) operator services;

(C) local directory assistance;

(D) telephone relay services; and

(E) interexchange service.

(4) Toll limitation services for qualifying low income customers.

SECTION 4. IC 8-1-2.6-0.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 0.2. As used in this chapter, "basic telecommunications rates and charges" means the monthly recurring rate for basic telecommunications service, including:

(1) flat rate and message rate service; and

(2) any nonrecurring charge for installation or a line or service connection.

SECTION 5. IC 8-1-2.6-0.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 0.3. (a) As used in this chapter, "nonbasic telecommunications service" means retail telecommunications service other than:

(1) basic telecommunications service, except when the service is purchased by the customer:

(A) in conjunction with another service;

(B) as part of a package of services, a promotion, or a contract; or

(C) at an otherwise discounted price;

(2) commercial mobile radio service (as defined in 47 CFR 51.5);

(3) services outside the jurisdiction of the commission under section 1.1 of this chapter; and

(4) switched and special carrier access services.

(b) The term includes services included in:

(1) customer specific contracts;

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- 1 (2) volume, term, and discount pricing options; and
 2 (3) packages, bundles, and promotions, including offers
 3 designed to win new customers, retain existing customers, or
 4 win back former customers.

5 SECTION 6. IC 8-1-2.6-0.4 IS ADDED TO THE INDIANA CODE
 6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 2005]: **Sec. 0.4. As used in this chapter, "provider" means a**
 8 **person or entity that offers basic or nonbasic telecommunications**
 9 **service.**

10 SECTION 7. IC 8-1-2.6-0.5 IS ADDED TO THE INDIANA CODE
 11 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 12 1, 2005]: **Sec. 0.5. As used in this chapter, "telecommunications"**
 13 **has the meaning set forth in 47 U.S.C. 153(43).**

14 SECTION 8. IC 8-1-2.6-0.6 IS ADDED TO THE INDIANA CODE
 15 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 16 1, 2005]: **Sec. 0.6. As used in this chapter, "telecommunications**
 17 **service" has the meaning set forth in 47 U.S.C. 153(46).**

18 SECTION 9. IC 8-1-2.6-0.7 IS ADDED TO THE INDIANA CODE
 19 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 20 1, 2005]: **Sec. 0.7. As used in this chapter, "incumbent local**
 21 **exchange carrier" means a local service telephone utility that**
 22 **provides telephone service to customers in the geographic territory**
 23 **served by the local exchange and is either of the following:**

- 24 (1) A telephone utility that on February 8, 1996, provided
 25 telephone exchange service in the geographic territory and
 26 was considered to be a member of the exchange carrier
 27 association under 47 CFR 69.601(b).
 28 (2) A person or an entity that on or after February 8, 1996,
 29 became a successor or assignee of a member of the exchange
 30 carrier association described in subdivision (1).

31 SECTION 10. IC 8-1-2.6-0.8 IS ADDED TO THE INDIANA
 32 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2005]: **Sec. 0.8. As used in this chapter,**
 34 **"payphone service provider" means an entity, other than an**
 35 **incumbent local exchange carrier, that owns and operates public**
 36 **or semipublic pay telephones or pay telephones used to provide**
 37 **telephone service in correctional institutions.**

38 SECTION 11. IC 8-1-2.6-1 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1. The Indiana general**
 40 **assembly hereby declares that:**

- 41 (1) the maintenance of universal telephone service is a continuing
 42 goal of the commission in the exercise of its jurisdiction;

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(2) competition has become commonplace in the provision of ~~certain telephone~~ **telecommunications** services in Indiana and the United States;

(3) advancements in and the convergence of technologies that provide voice, video, and data transmission, including:

(A) landline, wireless, cable, satellite, and Internet transmissions; and

(B) transmissions involving voice over Internet Protocol (VoIP), Internet Protocol enabled services, and voice over power lines;

are substantially increasing consumer choice, reinventing the marketplace with unprecedented speed, and making available highly competitive products and services and new methods of delivering local exchange service.

~~(3)~~ **(4) traditional commission regulatory policies, and practices, and existing statutes are not designed to deal with a competitive environment and technological advancements;**

~~(4)~~ **(5) an environment in which Indiana consumers will have available the widest array of state-of-the-art telephone telecommunications services at the most economic and reasonable cost possible will necessitate full and fair facilities based competition in the delivery of certain telephone telecommunications services throughout the state; Indiana; and**

~~(5)~~ **(6) streamlining of, and flexibility in, the regulation of providers of telephone telecommunications services, regardless of the technology used, is essential to the well-being of the state; Indiana, its economy, and its citizens and that the public interest requires that the commission be authorized to formulate and adopt rules and policies as will permit the commission, in the exercise of its expertise, to regulate and control the provision of telephone telecommunications services to the public in an increasingly competitive and technologically changing environment, giving due regard to the interests of consumers and the public, the ability of market forces to encourage innovation and investment, and to the continued universal availability of universal telephone basic telecommunications service.**

SECTION 12. IC 8-1-2.6-1.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1.1. (a) The commission shall not exercise jurisdiction over:**

(1) advanced services (as defined in 47 CFR 51.5);

(2) broadband service, as defined by the Federal

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Communications Commission; or

(3) any service not commercially available on February 8, 1996.

(b) The commission shall not exercise jurisdiction over information services (as defined in 47 U.S.C. 153(20)) or Internet Protocol enabled services, as defined by the Federal Communications Commission, except:

(1) as expressly permitted under IC 8-1-2.8;

(2) as may be reasonably necessary to provide for access to emergency services, including access to 911 and enhanced 911; and

(3) for purposes of determining the rights and obligations of any provider concerning the payment of switched network access rates or other compensation for use of another provider's facilities or services.

The commission shall not impose requirements under this subsection that exceed those imposed by, or that are otherwise inconsistent with, federal law, including federal regulations.

SECTION 13. IC 8-1-2.6-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.2. (a) Except as provided in section 16 of this chapter, the commission shall not, by entering an order, adopting a rule, or taking any other action, do any of the following:

(1) Impose a regulation concerning any nonbasic telecommunications service unless the regulation is imposed equally and uniformly on all providers.

(2) Impose a service quality regulation or performance standard concerning any nonbasic telecommunications service.

(3) Exercise jurisdiction over:

(A) any nonbasic telecommunications service; or

(B) the provider of any nonbasic telecommunications service;

if the commission has declined to exercise jurisdiction over the service or provider before July 1, 2005.

(b) Subject to sections 12 and 16 of this chapter, after June 30, 2007, the commission shall not exercise jurisdiction over any nonbasic telecommunications service except as follows:

(1) A provider may elect to file and maintain with the commission tariffs for nonbasic telecommunications services offered by the provider in Indiana. The commission shall

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1 permit a provider to implement a tariff, or a modification to
 2 a tariff, on the first day immediately following the date of
 3 filing with the commission.

4 (2) The commission may investigate, on a formal or informal
 5 basis, a complaint concerning a provider's compliance with a
 6 tariff filed with the commission under subdivision (1). The
 7 commission's investigation shall be limited to the sole issue of
 8 the provider's compliance with the filed tariff. The
 9 commission shall conduct a formal investigation only upon the
 10 request of any class satisfying the standing requirements of
 11 IC 8-1-2-54.

12 SECTION 14. IC 8-1-2.6-1.3 IS ADDED TO THE INDIANA
 13 CODE AS A NEW SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2005]: **Sec. 1.3. (a) The commission shall not,**
 15 **by entering an order, adopting a rule, or taking any other action,**
 16 **do any of the following with respect to basic telecommunications**
 17 **services and providers of basic telecommunications services:**

18 (1) Impose a regulation concerning any basic
 19 telecommunications service unless the regulation is imposed
 20 equally and uniformly on all providers.

21 (2) Impose a service quality regulation unless the regulation
 22 is imposed equally and uniformly on all providers.

23 (3) Impose a regulation or performance standard concerning
 24 service quality that:

25 (A) is more stringent than any service quality regulation or
 26 performance standard in effect on July 1, 2005; or

27 (B) measures performance more often than quarterly.

28 (4) Impose a reporting requirement concerning service
 29 quality that requires reporting to the commission more
 30 frequently than quarterly.

31 (5) Impose a regulation concerning universal availability of
 32 basic telecommunications service unless the regulation is
 33 imposed on a nondiscriminatory and competitively and
 34 technologically neutral basis.

35 (6) Exercise jurisdiction over:

36 (A) any basic telecommunications service; or

37 (B) the provider of any basic telecommunications service;
 38 if the commission has declined to exercise jurisdiction over the
 39 service or provider before July 1, 2005.

40 (7) Impose a regulation on, or exercise jurisdiction over:

41 (A) any basic telecommunications service; or

42 (B) the provider of any basic telecommunications service;

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1 if the service or provider is exempt from commission
 2 jurisdiction under IC 8-1-2-88.5 or IC 8-1-17-22.5, except as
 3 allowed under IC 8-1-2-88.5 or IC 8-1-17-22.5.

4 (b) Subject to subsection (c) and section 12 of this chapter, after
 5 June 30, 2007, a provider with more than one (1) rate class for
 6 basic telecommunications service may, without the prior approval
 7 of the commission, begin to transfer one (1) or more of the
 8 provider's monthly recurring rates for basic telecommunications
 9 service to a rate not exceeding the provider's highest monthly
 10 recurring rate for basic telecommunications services, as in effect
 11 on July 1, 2007. A provider may adjust one (1) or more of the
 12 provider's monthly recurring rates under this subsection not more
 13 than once in any twelve (12) month period and by an amount not
 14 to exceed one dollar (\$1). A provider shall provide the commission
 15 and all affected customers thirty (30) days advance notice of each
 16 rate adjustment under this subsection.

17 (c) A provider that increases one (1) or more recurring rates
 18 under subsection (b) shall continue to make available a flat
 19 monthly rate with unlimited local calling for basic
 20 telecommunications services in the local calling areas in which the
 21 provider offers basic telecommunications services on July 1, 2005.

22 (d) Subject to section 12 of this chapter, after June 30, 2010, the
 23 commission shall not exercise jurisdiction over the pricing, terms,
 24 and conditions for basic telecommunications service, except as
 25 follows:

26 (1) A provider may elect to file and maintain with the
 27 commission tariffs for basic telecommunications services
 28 offered by the provider in Indiana. The commission shall
 29 permit a provider to implement a tariff or a modification to
 30 a tariff on the first day immediately following the date of
 31 filing with the commission. A provider may withdraw without
 32 the approval of the commission any tariff filed under this
 33 subdivision.

34 (2) The commission may investigate, on a formal or informal
 35 basis, a complaint concerning a provider's compliance with a
 36 tariff filed with the commission under subdivision (1). The
 37 commission's investigation shall be limited to the sole issue of
 38 the provider's compliance with the filed tariff. The
 39 commission shall conduct a formal investigation only upon the
 40 request of any class satisfying the standing requirements of
 41 IC 8-1-2-54.

42 SECTION 15. IC 8-1-2.6-2 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. ~~(a) Notwithstanding any other statute, the commission may:~~

- ~~(1) on its own motion;~~
- ~~(2) at the request of the utility consumer counselor;~~
- ~~(3) at the request of one (1) or more telephone companies; or~~
- ~~(4) at the request of any class satisfying the standing requirements of IC 8-1-2-54;~~

~~enter an order, after notice and hearing, that the public interest requires the commission to commence an orderly process to decline to exercise, in whole or in part, its jurisdiction over telephone companies or certain telephone services. (a) This section applies to commission rules and orders concerning telecommunications service or providers of telecommunications service.~~

(b) Rules and orders described in this section:

- (1) may be adopted or issued only after notice and hearing; and**
- (2) must be:**
 - (A) consistent with this chapter; and**
 - (B) in the public interest, as determined by the commission under subsection (d).**

(c) Rules and orders described in this section must promote one (1) or more of the following:

- (1) Cost minimization for providers to the extent that a provider's quality of service and facilities are not diminished.**
- (2) A more accurate evaluation by the commission of a provider's physical or financial conditions or needs as well as a less costly regulatory procedure for either the provider, the provider's customers, or the commission.**
- (3) Development of depreciation guidelines and procedures that recognize technological obsolescence.**
- (4) Increased provider management efficiency beneficial to customers.**
- (5) Regulation consistent with a competitive environment.**

~~(b)~~ **(d) In determining whether the public interest will be served, as required under subsection (b), the commission shall consider:**

- (1) whether technological change, competitive forces, or regulation by other state and federal regulatory bodies render the exercise of jurisdiction by the commission unnecessary or wasteful;**
- (2) whether the exercise of commission jurisdiction produces tangible benefits to ~~telephone company~~ the customers of providers; and**

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(3) whether the exercise of commission jurisdiction inhibits a regulated entity from competing with unregulated providers of functionally similar ~~telephone~~ **telecommunications** services or equipment.

(c) The commission may:

(1) on its own motion;

(2) at the request of the utility consumer counselor;

(3) at the request of one (1) or more telephone companies; or

(4) at the request of any class satisfying the standing requirements of IC 8-1-2-54;

enter an order notifying any telephone company or class of telephone companies jurisdiction over which was either limited or not exercised according to this section that the commission will proceed to exercise jurisdiction over the telephone company, class of telephone companies, or class of telephone services provided by telephone companies to the extent the commission considers appropriate unless one (1) or more of those telephone companies formally request a hearing within fifteen (15) days following the date of such order.

SECTION 16. IC 8-1-2.6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) A regulatory flexibility committee is established to monitor competition in the telephone industry.

(b) The committee is composed of the members of a house standing committee selected by the speaker of the house of representatives and a senate standing committee selected by the president pro tempore of the senate. In selecting standing committees under this subsection, the speaker and president pro tempore shall determine which standing committee of the house of representatives and the senate, respectively, has subject matter jurisdiction that most closely relates to the electricity, gas, energy policy, and telecommunications jurisdiction of the regulatory flexibility committee. The chairpersons of the standing committees selected under this subsection shall cochair the regulatory flexibility committee.

(c) The commission shall, by July 1 of each year, prepare for presentation to the regulatory flexibility committee an analysis of the effects of competition **and technological change** on universal service and on pricing of all ~~telephone~~ **telecommunications** services **remaining** under the jurisdiction of the commission.

(d) In addition to reviewing the commission report prepared under subsection (c), the regulatory flexibility committee shall also issue a report and recommendations to the legislative council by November 1 of each year that is based on a review of the following issues:

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(1) The effects of competition in the ~~telephone~~ **telecommunications** industry and impact of competition **and technological change** on available subsidies used to maintain universal service.

(2) The status of modernization of the public **switched** telephone network in Indiana and the incentives required to further enhance this infrastructure.

(3) The effects on economic development and educational opportunities of this modernization.

(4) The current method of regulating ~~telephone companies~~ **telecommunications providers** and the method's effectiveness.

(5) The economic and social effectiveness of current ~~telephone~~ **telecommunications** service pricing.

(6) All other telecommunications issues the committee deems appropriate.

The report and recommendations issued under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

(e) The regulatory flexibility committee shall meet on the call of the cochairpersons to study telecommunications issues described in subsection (d). The committee shall, with the approval of the commission, retain the independent consultants the committee considers appropriate to assist the committee in the review and study. The expenses for the consultants shall be paid by the commission.

SECTION 17. IC 8-1-2.6-4.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 4.1. (a) Not later than:**

(1) July 1, 2007; and

(2) July 1 of each odd-numbered year after July 1, 2007;

the commission shall, through rulemaking under IC 4-22-2 or another commission proceeding, identify and eliminate regulations and policies concerning telecommunications services and providers that are no longer necessary or appropriate as a result of technological advancement and competition in the telecommunications industry.

(b) In carrying out this section, the commission shall promote the policies and purposes set forth in this chapter. The commission's annual report to the regulatory flexibility committee under section 4 of this chapter must:

(1) identify any regulation or policy eliminated under this section; and

(2) justify any regulation or policy that is retained.

SECTION 18. IC 8-1-2.6-8 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) As used in this
 2 section, "rate reduction" means a decrease in either recurring or
 3 nonrecurring rates or charges.

4 (b) Notwithstanding any other provision of this chapter or any other
 5 statute, a ~~telephone company~~ **provider** may ~~subject to the prior~~
 6 ~~approval of the commission~~, participate in any rate reduction program
 7 for residential customers funded from revenues provided by any
 8 governmental entity or other revenues administered by an agency of
 9 that entity.

10 SECTION 19. IC 8-1-2.6-10 IS ADDED TO THE INDIANA CODE
 11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 12 1, 2005]: **Sec. 10. (a) The commission shall not, when acting under**
 13 **any authority delegated to the commission by federal law,**
 14 **including when conducting arbitration of interconnection**
 15 **agreements under the federal Telecommunications Act of 1996, 47**
 16 **U.S.C. 251 et seq., impose any requirements or set any prices**
 17 **concerning:**

18 (1) unbundled network elements;

19 (2) the resale of telecommunications services; or

20 (3) interconnection with the facilities and equipment of
 21 providers;

22 that exceed, or are otherwise inconsistent with, federal laws and
 23 regulations.

24 (b) The commission shall establish reasonable pricing for
 25 unbundled network elements, the resale of telecommunications
 26 services, and interconnection in accordance with the federal
 27 Telecommunications Act of 1996, 47 U.S.C 251 et seq., and all other
 28 federal laws and regulations.

29 (c) This chapter does not affect:

30 (1) the commission's continuing authority to resolve
 31 interconnection disputes between telecommunications carriers
 32 that arise under the federal Telecommunications Act of 1996,
 33 47 U.S.C. 251 et seq.; or

34 (2) a provider's ability to file a complaint with the commission
 35 to have a dispute, after notice and hearing, decided by the
 36 commission.

37 SECTION 20. IC 8-1-2.6-11 IS ADDED TO THE INDIANA CODE
 38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 39 1, 2005]: **Sec. 11. (a) Notwithstanding any other law, the**
 40 **commission shall not, by entering an order, adopting a rule, or**
 41 **taking any other action, impose a regulation or performance**
 42 **standard concerning the transfer of customers between providers**

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1 unless the regulation or performance standard is imposed equally
2 and uniformly on all providers.

3 (b) After a customer's telecommunications services have been
4 ported, the initial provider may, to the extent permitted by federal
5 law and by IC 24-4.7-4, contact the customer to confirm that the
6 customer has made the decision to change to the other provider.

7 (c) A provider may not refuse to transfer or facilitate the
8 transfer of a local exchange service customer of the provider to
9 another provider on the same terms and conditions that the
10 provider receives from any other provider unless the terms and
11 conditions violate federal law.

12 SECTION 21. IC 8-1-2.6-12 IS ADDED TO THE INDIANA CODE
13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
14 1, 2005]: **Sec. 12. This chapter does not terminate or otherwise
15 change the terms and conditions of a settlement agreement
16 approved by the commission under this chapter before July 29,
17 2004.**

18 SECTION 22. IC 8-1-2.6-13 IS ADDED TO THE INDIANA CODE
19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
20 1, 2005]: **Sec. 13. This chapter does not modify, affect, or nullify the
21 responsibilities lawfully delegated to the commission under:**

22 (1) 47 U.S.C. 251; and

23 (2) 47 U.S.C. 252.

24 SECTION 23. IC 8-1-2.6-14 IS ADDED TO THE INDIANA CODE
25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
26 1, 2005]: **Sec. 14. This chapter does not affect the rights and
27 obligations of any person or entity concerning the payment of
28 switched network access rates or other carrier compensation
29 concerning:**

30 (1) Internet Protocol enabled service;

31 (2) advanced services (as defined in 47 CFR 51.5);

32 (3) broadband service; or

33 (4) other Internet access services.

34 SECTION 24. IC 8-1-2.6-15 IS ADDED TO THE INDIANA CODE
35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
36 1, 2005]: **Sec. 15. (a) Except as provided in subsection (b), if there
37 is a conflict between this chapter another provision of this article,
38 this chapter controls.**

39 (b) This chapter does not affect the rights of a
40 telecommunications provider under IC 8-1-2-88.5 or
41 IC 8-1-17-22.5.

42 SECTION 25. IC 8-1-2.6-16 IS ADDED TO THE INDIANA CODE

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1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2005]: **Sec. 16. Notwithstanding any other statute, the**
3 **commission shall retain jurisdiction to establish just and**
4 **reasonable rates that may be charged by an incumbent local**
5 **exchange carrier to a payphone service provider. Rates established**
6 **under this section must be:**

- 7 (1) **based on the costs incurred by the incumbent local**
8 **exchange carrier to provide the service;**
- 9 (2) **consistent with the requirements of 47 U.S.C. 276;**
- 10 (3) **nondiscriminatory; and**
- 11 (4) **consistent with the pricing guidelines for payphone service**
12 **providers established by the Federal Communications**
13 **Commission.**

14 SECTION 26. IC 8-1-2.8-8 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 8. As used in this**
16 **chapter, "local exchange telephone company" or "LEC" means a**
17 **company authorized by the commission to provide, among other**
18 **services, local exchange access service. The term includes a provider**
19 **of Internet Protocol enabled services that is required to provide**
20 **dual party relay services to hearing impaired and speech impaired**
21 **persons under federal law.**

22 SECTION 27. IC 8-1-19.5-14 IS ADDED TO THE INDIANA
23 CODE AS A NEW SECTION TO READ AS FOLLOWS
24 [EFFECTIVE JULY 1, 2005]: **Sec. 14. (a) Notwithstanding**
25 **IC 8-1-2.6, the commission may retain:**

- 26 (1) **jurisdiction over the rates, charges, and service quality of**
27 **211 services provided by telecommunications providers; and**
- 28 (2) **the authority to fulfill the commission's duties under this**
29 **chapter.**

30 (b) **The commission may not impose a rule concerning the**
31 **service quality of 211 services provided by a telecommunications**
32 **provider unless the rule is imposed equally and uniformly on all**
33 **telecommunications providers.**

34 (c) **Upon a petition by:**

- 35 (1) **a telecommunications provider; or**
- 36 (2) **a recognized 211 services provider;**

37 **the commission may formally or informally investigate a**
38 **telecommunications provider's rates and charges to determine**
39 **whether the rates and charges are just and reasonable. For**
40 **purposes of this section, a rate is considered reasonable if the rate**
41 **covers the telecommunications provider's costs and allows a**
42 **reasonable profit.**

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SECTION 28. IC 8-1-19.7 IS ADDED TO THE INDIANA CODE
AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2005]:

Chapter 19.7. Telecommunications Providers of Last Resort

Sec. 1. Except as otherwise provided, the definitions in
IC 8-1-2.6 apply throughout this chapter.

Sec. 2. As used in this chapter, "exiting provider" means a
provider that:

- (1) holds a certificate of territorial authority issued by the
commission;
- (2) is the predominate local exchange carrier in a defined
geographic area and provides telecommunications services
using the provider's own facilities; and
- (3) ceases operation in all or part of the service area covered
by the certificate of territorial authority.

Sec. 3. As used in this chapter, "local exchange carrier" has the
meaning set forth in 47 U.S.C. 153(26). The term includes an
incumbent local exchange carrier (as defined in 47 CFR 51.5).

Sec. 4. As used in this chapter, "provider of last resort" means
a provider that:

- (1) holds a certificate of territorial authority issued by the
commission; and
- (2) is required to offer local exchange service throughout a
defined geographic area.

Sec. 5. As used in this chapter, "successor provider" means a
provider that:

- (1) holds a certificate of territorial authority issued by the
commission; and
- (2) is, or is designated to become, the provider of last resort
for a defined geographic area previously served by an exiting
provider.

Sec. 6. Except as provided in section 8 of this chapter, an
incumbent local exchange carrier has the obligations of the
provider of last resort. An incumbent local exchange carrier may
meet the carrier's obligations under this section using any available
technology.

Sec. 7. (a) This section applies to a provider that holds a
certificate of territorial authority to provide local exchange service
in Indiana. If a provider:

- (1) decides to cease serving all or part of the provider's
defined service area; or
- (2) plans to file for bankruptcy;

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the provider shall provide at least sixty (60) days advance notice to the commission and each affected customer and wholesale provider.

(b) A notice described in subsection (a) must:

(1) be submitted in the form and manner prescribed by the commission; and

(2) include at least one (1) toll free customer service telephone number maintained by the provider to facilitate the continuation of service and the transition of customers to other providers.

(c) The exiting provider is liable for all charges owed to other providers and is responsible for any provider change charges.

Sec. 8. (a) If the holder of a certificate of territorial authority to provide local exchange service installs facilities to provide telecommunications services, including local exchange service, in a defined geographic area and:

(1) the holder is not the designated provider of last resort for the area; and

(2) the designated provider of last resort for the area has not installed facilities to serve customers in the area;

the designated provider of last resort may petition the commission for an order relieving the designated provider of its obligations as the provider of last resort in the area.

(b) The commission shall relieve the petitioning provider from its obligations as the provider of last resort for the area described in subsection (a) and shall designate the holder making the installation under subsection (a) as the provider of last resort for the area if the commission determines that:

(1) the petitioning provider does not have facilities in place to provide local exchange service to all customers in the area; and

(2) the holder making the installation under subsection (a) has installed facilities adequate to provide local exchange service throughout the area.

The commission shall make the determinations required by this subsection not later than sixty (60) days after the date the petition is filed with the commission under subsection (a).

Sec. 9. (a) If:

(1) the commission receives notice of an exiting provider's decision to cease operation in all or part of the service area covered by the provider's certificate of territorial authority; and

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1 (2) there is not another provider that:

2 (A) holds a certificate of territorial authority in the area;
3 and

4 (B) has facilities sufficient to provide basic
5 telecommunications services in the area;

6 the commission shall conduct a formal proceeding to determine the
7 successor provider for the area.

8 (b) After determining the successor provider for the affected
9 area under subsection (a), the commission shall, if applicable,
10 provide to the successor provider:

11 (1) a reasonable time, determined by the commission and in
12 accordance with industry practices, in which to modify,
13 construct, or obtain facilities necessary to serve the customers
14 of the exiting provider; and

15 (2) an exemption, on a transitional basis, from any obligation
16 to:

17 (A) unbundle the successor provider's network elements;
18 or

19 (B) provide telecommunications services for resale within
20 the affected area;

21 for a period determined by the commission to be reasonably
22 necessary to allow the successor provider to modify the successor
23 provider's facilities to meet the obligations described in this
24 subdivision.

25 (c) The successor provider is entitled to obtain funding from a
26 state universal service fund to support the provider's assumption
27 of obligations as the provider of last resort for the area. This
28 section does not prohibit a provider from voluntarily:

29 (1) serving customers in the affected area; or

30 (2) purchasing the facilities of the exiting provider.

31 (d) A customer within the defined geographic area to be served
32 by the successor provider is considered to have applied for basic
33 telecommunications service from the successor provider on the
34 effective date of the commission's designation of the successor
35 provider. Each right, privilege, and obligation applicable to
36 customers of the successor provider applies to a customer
37 transferred to the successor provider under this section. A
38 customer transferred to the successor provider under this section
39 is subject to the successor provider's terms of service as specified
40 in an applicable tariff or contract. This section does not prohibit a
41 customer from seeking, at any time, service from a provider other
42 than the successor provider.

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1 **Sec. 10. (a) As used in this section, "facilities based local**
 2 **exchange carrier" means a local exchange carrier that provides**
 3 **local exchange service:**

4 **(1) exclusively over facilities owned or leased by the carrier;**
 5 **or**

6 **(2) predominantly over facilities owned or leased by the**
 7 **carrier, in combination with the resale of the**
 8 **telecommunications services of another carrier.**

9 **(b) The commission may, on its own motion or on the petition of**
 10 **an interested party, institute an expedited proceeding under this**
 11 **section if the commission determines that:**

12 **(1) a facilities based local exchange carrier has a certificate of**
 13 **territorial authority to provide local exchange service in a**
 14 **defined geographic area;**

15 **(2) there is not another provider that:**

16 **(A) holds a certificate of territorial authority in the area;**
 17 **and**

18 **(B) has facilities sufficient to provide local exchange**
 19 **service in the area; and**

20 **(3) the facilities based local exchange carrier has:**

21 **(A) ceased providing local exchange service to the**
 22 **customers in the area; or**

23 **(B) abandoned the operation of the carrier's facilities in**
 24 **the area that are used to provide local exchange service.**

25 **(c) In a proceeding under this section, the commission may**
 26 **declare that an emergency exists and issue any order necessary to**
 27 **protect the health, safety, and welfare of affected customers and to**
 28 **expedite the restoration or continuation of local exchange service**
 29 **to the affected customers. An order issued under this subsection**
 30 **may:**

31 **(1) provide for the temporary operation of the facilities based**
 32 **local exchange carrier's facilities by any provider, including**
 33 **a provider that has not been issued a certificate of territorial**
 34 **authority by the commission;**

35 **(2) authorize one (1) or more third parties to enter the**
 36 **premises of any abandoned facilities; or**

37 **(3) grant temporary waivers from quality of service**
 38 **requirements for any provider:**

39 **(A) providing service under subdivision (1); or**

40 **(B) designated as a successor provider by the commission**
 41 **under subsection (d).**

42 **(d) The commission may act under section 9 of this chapter to**

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1 designate a successor provider in any proceeding under this
2 section.

3 Sec. 11. (a) If a provider, other than the incumbent local
4 exchange carrier, operates under an arrangement by which the
5 provider is the exclusive provider of basic telecommunications
6 services in a particular geographic area, building, or group of
7 residences and businesses, the incumbent local exchange carrier is
8 relieved of any provider of last resort obligations that the
9 incumbent local exchange carrier may have with respect to the
10 particular geographic area, building, or group of residences and
11 buildings.

12 (b) If:

13 (1) a provider with an exclusive service arrangement
14 described in subsection (a) decides to cease operations in all
15 or part of the particular geographic area, building, or group
16 of residences and buildings that the provider serves under the
17 arrangement; and

18 (2) the incumbent local exchange carrier has insufficient
19 facilities to serve the affected customers of the exiting
20 provider but purchases the facilities of the exiting provider;
21 the incumbent local exchange carrier has twelve (12) months to
22 make any modifications necessary to the purchased facilities to
23 allow the incumbent local exchange carrier to meet any applicable
24 unbundling or interconnection requirements with respect to the
25 purchased facilities. The incumbent local exchange carrier may
26 apply to the commission for an extension of the period allowed
27 under this subsection, and the commission shall grant the extension
28 upon good cause shown by the incumbent local exchange carrier.

29 SECTION 29. THE FOLLOWING ARE REPEALED [EFFECTIVE
30 JULY 1, 2005]: IC 8-1-2.6-3; IC 8-1-2.6-5; IC 8-1-2.6-7.

31 SECTION 30. [EFFECTIVE UPON PASSAGE] (a) As used in this
32 SECTION, "commission" refers to the Indiana utility regulatory
33 commission created by IC 8-1-1-2.

34 (b) Not later than November 15, 2006, the commission shall
35 submit to the regulatory flexibility committee established by
36 IC 8-1-2.6-4 a report that includes an analysis of the following
37 issues:

38 (1) The status of competition in Indiana within the wireline
39 and wireless telecommunications industries and between the
40 wireline and wireless telecommunications industries.

41 (2) The level of concentration of ownership in the
42 telecommunications industry and the degree to which

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corporate mergers, acquisitions, and buyouts within the industry affect consumer choices and pricing in Indiana.

(3) For each county in Indiana, a breakdown of the number of available providers of the following services:

(A) Wireline telephone services.

(B) Wireless telephone services.

(C) Wireless broadband services.

(D) Broadband services other than wireless broadband services.

(4) The amount of investment in telecommunications infrastructure in Indiana by investor owned or privately held companies compared to the level of revenues generated in Indiana by the investor owned or privately held companies. The analysis required by this subdivision must indicate the location within Indiana of the telecommunications infrastructure described.

(5) The effects of the following on universal service in Indiana:

(A) The convergence of telecommunications services and technologies.

(B) State and federal regulatory decisions.

(6) The degree to which the use of new technologies in the telecommunications industry affects the reliability of telecommunications services, including the provision of enhanced 911 services and 211 services.

(7) The impact on consumers and telecommunications providers of:

(A) federal telecommunications laws and regulations; and

(B) state and federal judicial decisions concerning telecommunications laws and regulations.

(8) A comparison of Indiana's contributions to the federal universal services fund versus federal universal service fund allocations or discounts provided to eligible recipients in Indiana.

(c) The report prepared under this SECTION may be made in conjunction with the commission's annual report to the regulatory flexibility committee under IC 8-1-2.6-4. The commission shall include in the report any recommendations for proposed legislation:

(1) concerning the issues analyzed in the report; and

(2) that the commission determines to be in the public interest.

(d) This SECTION expires December 1, 2007.

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1 SECTION 31. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Technology, Research and Development, to which was referred House Bill 1518, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 18, delete "the Internet," and insert "**Internet Protocol enabled services,**".

Page 4, line 36, delete "and".

Page 4, line 38, delete "chapter." and insert "**chapter; and**".

Page 4, between lines 38 and 39, begin a new line block indented and insert:

"(4) switched and special carrier access services."

Page 8, line 36, delete "Through the period ending July 1, 2010, a" and insert "A".

Page 8, line 38, after "rate" insert "**with unlimited local calling**".

Page 8, line 41, delete "2007," and insert "**2010,**".

Page 12, delete lines 29 through 42.

Page 13, delete lines 1 through 12.

Page 13, line 15, after "10." insert "(a)".

Page 13, line 16, after "law," insert "**including when conducting arbitration of interconnection agreements under the federal Telecommunications Act of 1996, 47 U.S.C. 251 et seq.,**".

Page 13, line 23, delete "In establishing pricing for unbundled network".

Page 13, delete lines 24 through 26, begin a new paragraph and insert:

"(b) The commission shall establish reasonable pricing for unbundled network elements, the resale of telecommunications services, and interconnection in accordance with the federal Telecommunications Act of 1996, 47 U.S.C 251 et seq., and all other federal laws and regulations.

(c) This chapter does not affect:

(1) the commission's continuing authority to resolve interconnection disputes between telecommunications carriers that arise under the federal Telecommunications Act of 1996, 47 U.S.C. 251 et seq.; or

(2) a provider's ability to file a complaint with the commission to have a dispute, after notice and hearing, decided by the commission."

Page 13, line 35, delete "Whenever a provider obtains information that a customer" and insert "**After a customer's telecommunications services have been ported,**".

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Page 13, line 36, delete "has changed to another provider,".

Page 13, line 37, delete "," and insert "**and by IC 24-4.7-4**,".

Page 14, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 25. IC 8-1-19.5-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 14. (a) Notwithstanding IC 8-1-2.6, the commission may retain:**

- (1) **jurisdiction over the rates, charges, and service quality of 211 services provided by telecommunications providers; and**
- (2) **the authority to fulfill the commission's duties under this chapter.**

(b) **The commission may not impose a rule concerning the service quality of 211 services provided by a telecommunications provider unless the rule is imposed equally and uniformly on all telecommunications providers.**

(c) **Upon a petition by:**

- (1) **a telecommunications provider; or**
- (2) **a recognized 211 services provider;**

the commission may formally or informally investigate a telecommunications provider's rates and charges to determine whether the rates and charges are just and reasonable. For purposes of this section, a rate is considered reasonable if the rate covers the telecommunications provider's costs and allows a reasonable profit."

Page 16, line 9, delete "At the same time a provider gives notice under subsection".

Page 16, delete lines 10 through 18.

Page 16, run in lines 9 through 19.

Page 16, delete lines 21 through 26.

Page 17, line 25, after "time," insert "**determined by the commission and**".

Page 17, line 25, delete "practices" and insert "**practices**,".

Page 17, delete line 26.

Page 17, line 27, delete "or standards of the commission,".

Page 17, delete line 36.

Page 17, line 37, delete "authorize as" and insert "**for a period determined by the commission to be**".

Page 19, line 36, delete "eighteen (18)" and insert "**twelve (12)**".

Page 20, line 3, delete "IC 8-1-2.6-6;".

Page 20, after line 3, begin a new paragraph and insert:

"SECTION 27. [EFFECTIVE JULY 1, 2005] **(a) As used in this SECTION, "commission" refers to the Indiana utility regulatory**

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commission created by IC 8-1-1-2.

(b) Not later than November 1, 2005, the regulatory flexibility committee established by IC 8-1-2.6-4 shall study the following issues:

(1) The rates and charges assessed for bundled or packaged services that includes telecommunications services along with:

- (A) information services;
- (B) advanced services; or
- (C) broadband services.

(2) The ability of consumers to compare the pricing of bundles or packages:

- (A) that are offered by different providers; or
- (B) that contain different combinations of services.

(c) The regulatory flexibility committee shall prepare a report on the committee's recommendations, if any, concerning the issues described in subsection (b) and shall submit the report to the legislative council in an electronic format under IC 5-14-6 not later than December 1, 2005."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1518 as introduced.)

MURPHY, Chair

Committee Vote: yeas 9, nays 2.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1518 be amended to read as follows:

Page 5, between lines 17 and 18, begin a new paragraph and insert:
"SECTION 9. IC 8-1-2.6-0.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 0.7. As used in this chapter, "incumbent local exchange carrier" means a local service telephone utility that provides telephone service to customers in the geographic territory served by the local exchange and is either of the following:

- (1) A telephone utility that on February 8, 1996, provided telephone exchange service in the geographic territory and was considered to be a member of the exchange carrier association under 47 CFR 69.601(b).**
- (2) A person or an entity that on or after February 8, 1996, became a successor or assignee of a member of the exchange carrier association described in subdivision (1).**

SECTION 10. IC 8-1-2.6-0.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 0.8. As used in this chapter, "payphone service provider" means an entity, other than an incumbent local exchange carrier, that owns and operates public or semipublic pay telephones or pay telephones used to provide telephone service in correctional institutions."

Page 7, line 1, delete "The" and insert **"Except as provided in section 16 of this chapter, the"**.

Page 7, line 16, delete "section 12" and insert **"sections 12 and 16"**.

Page 14, between lines 20 and 21, begin a new paragraph and insert:
"SECTION 10. IC 8-1-2.6-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. Notwithstanding any other statute, the commission shall retain jurisdiction to establish just and reasonable rates that may be charged by an incumbent local exchange carrier to a payphone service provider. Rates established under this section must be:

- (1) based on the costs incurred by the incumbent local exchange carrier to provide the service;**
- (2) consistent with the requirements of 47 U.S.C. 276;**
- (3) nondiscriminatory; and**
- (4) consistent with the pricing guidelines for payphone service providers established by the Federal Communications Commission."**



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Renumber all SECTIONS consecutively.

(Reference is to HB 1518 as printed February 22, 2005.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1518 be amended to read as follows:

Page 19, delete lines 38 through 42, begin a new paragraph and insert:

"SECTION 27. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

(b) Not later than November 15, 2006, the commission shall submit to the regulatory flexibility committee established by IC 8-1-2.6-4 a report that includes an analysis of the following issues:

(1) The status of competition in Indiana within the wireline and wireless telecommunications industries and between the wireline and wireless telecommunications industries.

(2) The level of concentration of ownership in the telecommunications industry and the degree to which corporate mergers, acquisitions, and buyouts within the industry affect consumer choices and pricing in Indiana.

(3) For each county in Indiana, a breakdown of the number of available providers of the following services:

(A) Wireline telephone services.

(B) Wireless telephone services.

(C) Wireless broadband services.

(D) Broadband services other than wireless broadband services.

(4) The amount of investment in telecommunications infrastructure in Indiana by investor owned or privately held companies compared to the level of revenues generated in Indiana by the investor owned or privately held companies. The analysis required by this subdivision must indicate the location within Indiana of the telecommunications infrastructure described.

(5) The effects of the following on universal service in Indiana:

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(A) The convergence of telecommunications services and technologies.

(B) State and federal regulatory decisions.

(6) The degree to which the use of new technologies in the telecommunications industry affects the reliability of telecommunications services, including the provision of enhanced 911 services and 211 services.

(7) The impact on consumers and telecommunications providers of:

(A) federal telecommunications laws and regulations; and

(B) state and federal judicial decisions concerning telecommunications laws and regulations.

(8) A comparison of Indiana's contributions to the federal universal services fund versus federal universal service fund allocations or discounts provided to eligible recipients in Indiana.

(c) The report prepared under this SECTION may be made in conjunction with the commission's annual report to the regulatory flexibility committee under IC 8-1-2.6-4. The commission shall include in the report any recommendations for proposed legislation:

(1) concerning the issues analyzed in the report; and

(2) that the commission determines to be in the public interest.

(d) This SECTION expires December 1, 2007.

SECTION 28. An emergency is declared for this act."

Delete page 20.

Renumber all SECTIONS consecutively.

(Reference is to HB 1518 as printed February 22, 2005.)

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